UNITED NATIONS

CCPR

International covenant on civil and political rights

Distr.
GENERAL

CCPR/C/SR.1841
1 February 2002

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

Sixty-ninth session

SUMMARY RECORD OF THE 1841st MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 11 July 2000, at 10 a.m.

Chairperson: Ms. MEDINA QUIROGA

later: Mr. AMOR

later: Ms. MEDINA QUIROGA

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Initial report of Kyrgyzstan

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.00-43167 (E) 261101 010202

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Initial report of Kyrgyzstan (CCPR/C/113/Add.1; CCPR/C/69/L/KGZ; HRI/CORE/1/Add.101)

1. At the invitation of the Chairperson, Ms. Baekova, Mr. Abyshkaev, Mr. Bakir Uulu, Mr. Sultanov and Mr. Jumaliev (Kyrgyzstan) took places at the Committee table.

2. The CHAIRPERSON invited the members of the Kyrgyz delegation to introduce their country's report (CCPR/C/113/Add.1).

3. Mr. ABYSHKAEV (Kyrgyzstan) thanked the Committee for the opportunity to introduce his country's report, which described the measures recently taken or due to be taken by Kyrgyzstan in the field of civil and political rights and had been prepared in accordance with the general guidelines regarding the form and content of initial reports issued by the Committee.

4. The Kyrgyz Republic, which had gained independence in 1991, had embarked on a reform policy geared towards establishing a market economy, a democratic system and the rule of law. In 1994, it had thus ratified the International Covenant on Civil and Political Rights, which now formed an integral part of domestic law, pursuant to article 3 of the Kyrgyz Constitution.

5. Following the adoption of the Covenant, the President of the Republic had issued a decree establishing a Human Rights Commission, which was mainly responsible for improving human rights protection mechanisms and developing close cooperation with international organizations and NGOs. The Executive was also assisted by a State Commission on the Family, Women and Youth. The Legislative Assembly had set up a Human Rights Committee, whose principal task was to monitor legislative activities and to propose draft legislation on human rights. Primary responsibility for monitoring the implementation of laws and treaties lay with the Office of the Procurator.

6. The principle of equality between men and women was embodied in article 15 of the Constitution, which stipulated that all citizens enjoyed equal rights, regardless of ethnic or social origin, sex, language, political or other opinions, religion, place of residence, property status or any other criterion. In order to protect women, the Kyrgyz Criminal Code provided for terms of imprisonment ranging from 5 to 20 years for persons guilty of rape. Kyrgyzstan had, moreover, ratified the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Political Rights of Women, the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, the Convention on the Nationality of Married Women, and ILO Convention No. 103 of 28 June 1952 concerning Maternity Protection.

7. The moratorium on executions, which had entered into force in December 1998 for a period of two years, provided that the death penalty could not be handed down against either

women or minors and in any case only in the event of very serious crimes, such as aggravated murder, aggravated statutory rape, an attempt on the life of an official and genocide. Any convicted person naturally had the right to appeal for pardon. As clearly shown in paragraphs 189, 190 and 191 of the initial report, Kyrgyzstan had developed extensive legal machinery with a view to prohibiting and preventing torture and other cruel, inhuman or degrading treatment or punishment. That principle was applied, in practice, since no more than 96 cases of violations of civil rights by officials had been recorded in 1999.

8. Detention was governed by many legal provisions. Article 11 of the Criminal Code stipulated that no one could be detained without a warrant, article 132 of the Code of Criminal Procedure laid down the conditions for the enforcement of sentences, providing, inter alia, for medical supervision, and article 110 set forth the terms of pre-trial detention, stipulating, in particular, that pre-trial detention could be imposed only on persons liable to at least three years' imprisonment, in circumstances posing no threat to life or health, within strictly prescribed deadlines and provided that the case was brought before the courts within a maximum period of one year. A prison with a capacity of 500 had recently been renovated and a bill providing for the construction of prisons in each province was currently being prepared.

9. Work permits were regulated by the 1994 law on passports and by various laws governing the situation of foreign workers and nationality. Freedom of movement was guaranteed and had been strengthened by a decree dated 17 October 1994.

10. The Constitution and the law guaranteed the independence of judges vis-à-vis the Executive. The new Criminal Code and the new Code of Criminal Procedure, which had both entered into force in 1999, had been drawn up with a view to democratizing the courts, expanding the appeal machinery and enhancing the independence of the judiciary. The status of lawyers had been strengthened by the law of 21 October 1999 on the activities of the bar.

11. The Constitution and the Criminal Code guaranteed the right of suspects and accused persons to receive legal assistance immediately upon arrest and to choose a relative as counsel. The right to challenge the grounds for detention or to request a review of detention conditions was laid down in the Code of Criminal Procedure.

12. Two individuals had been convicted of libel in a ruling handed down in 1997. The ruling had been reviewed and upheld, although one of the two sentences had been reduced. No newspaper had been closed down since 1995.

13. All public demonstrations and meetings organized in community facilities or public places were authorized, on condition that none of the participants bore any weapons and that the organizers had applied for authorization no later than 10 days before the date set for the event. The local administrative authorities were empowered to ban a demonstration if its aims were at variance with the Constitution or constituted a threat to the health of citizens or public order or if it had not been notified beforehand. They could also suggest an alternative time and place for the event. The organizers must be informed of the authorities' agreement or refusal no later than five days before the appointed date and could request a review of the decision. Anyone who hampered the staging of a peaceful demonstration was liable to be prosecuted.

14. There was no restriction on the number of candidates in legislative elections. The law guaranteed freedom of voting and laid down penalties for obstructing an election process. The indictment of an opposition leader in 1996 had borne no relation to the elections, for the person in question had merely been tried and found guilty of physical assault and sentenced to two years' imprisonment.

15. The Kyrgyz Republic was a multinational State made up of many ethnic groups which enjoyed equal rights before the law, in particular under the Civil Code, the Criminal Code and the Constitution. The Constitution provided for schoolchildren to be educated in their respective mother tongues.

16. The CHAIRPERSON suggested that the delegation should stop its introductory statement at that point and go on to reply in greater detail to questions 1 to 15 of the list of issues to be taken up (CCPR/C/69/L/KGZ).

17. Ms. BAEKOVA (Kyrgyzstan), replying to the questions on the Committee's list not covered in her colleague's introduction, pointed out that the Covenant formed an integral part of Kyrgyz domestic law and could therefore be invoked directly in the courts (question 1). A parliamentary commission was currently examining a bill on the establishment of the post of Commissioner for Human Rights, which should be adopted in the autumn (question 2). No state of emergency had been declared in the territory of the Kyrgyz Republic since 1994 (question 3).

18. There were currently six women holding seats in Parliament and two women holding ministerial positions. Women were also represented in the judiciary and 25 per cent of judges were women, including herself as the President of the Constitutional Court. Women were still a minority in government bodies, however, and the authorities were trying to change people's attitudes in order to give full effect to article 15 of the Constitution, which established, in particular, equality between citizens, regardless of gender. The country's NGOs had many female staff and a point worth noting was the existence of a women's democratic party. Although much remained to be done in terms of gender equality, the good general standard of education among women boded well for an improvement in their status and level of representation in public life in the near future (questions 5 and 7).

19. The moratorium on executions, established in December 1998, would expire at the end of the current year. The new Criminal Code still provided for capital punishment for the most serious crimes, but there was a growing trend within Kyrgyz society in favour of abolishing the death penalty (question 8). The penalties imposed on law enforcement officers who had ill-treated suspects had already been mentioned, but it should be added that confessions obtained under torture were not admissible by the courts and that the Procurator-General carried out the requisite verifications in the event of doubt regarding the method used in obtaining confessions (question 9). The country's prisons dated back to the Soviet era and it must be acknowledged that detention conditions in Kyrgyzstan did not meet existing international standards. It might be useful to recall in that connection that traditional Kyrgyz law, in force prior to 1917, had not provided for any form of imprisonment and that there had been no prisons in the country at that time (question 11).

20. The independence of the judiciary was fully guaranteed. Kyrgyz citizens could apply directly to the Constitutional Court - a possibility that did not exist in most of the former Soviet republics. Two thirds of cases heard by the Court were in fact brought under that procedure. There were three levels of jurisdiction: the courts of first instance, the appeal courts and two high courts, i.e. the Supreme Court and the High Court of Arbitration (question 13). Pursuant to the new Code of Criminal Procedure, it was for the Procurator's Office to prove that a suspect was guilty, and appeals brought by public prosecutors had the same status as those brought by counsel for the defence (question 15).

21. Mr. BAKIR UULU (Kyrgyzstan), replying to the remaining questions on the list of issues, said that freedom of movement was indeed restricted in certain parts of the country and inhabitants wishing to move about the regions in question had to apply for special authorization by the security services. Such a measure was indispensable in border areas, as shown by the events in 1999 along the border with Tajikistan, when Tajik combatants had entered Kyrgyz territory. It was correct that the need to obtain government permission to work and settle was still in force in certain regions of the country (question 12). Expanding on the explanations given by his colleague, he said that three bills relating to the establishment of the post of Commissioner for Human Rights had been submitted to Parliament and that their examination had been postponed until the autumn session, when they would most probably be approved. That parliamentary session also being devoted to the adoption of the budget, the funds needed to create the post would be allocated at that time (question 2). On the subject of the moratorium on executions (question 8), he said that the Human Rights Commission had made a proposal for the organization of a referendum on maintaining or abolishing the death penalty.

22. Mr. WIERUSZEWSKI, noting that the problems which faced Kyrgyzstan, like any other country in transition, were inevitable, said that he welcomed the involvement of civil society in the life of the country. The Committee had received an impressive number of contributions from Kyrgyz NGOs, and that was a very positive sign, even though they reported violations of human rights. Referring to some points which might already have been covered in Mr. Abyshkaev's introduction, but which he himself still regarded as rather unclear, he asked why, in connection with question 3 of the list of issues, a state of emergency had not been declared at the time of the disturbances in the south of the country in 1999, whereas the region had been well and truly under military control.

23. Referring to question 4, he said he would like to have precise statistics on cases of violence, including domestic violence, against women which had been brought to the authorities' knowledge and on the number of investigations conducted and legal proceedings instituted. As to the number of first-hand accounts received by the Committee and reporting acts of brutality by law enforcement officers, particularly with a view to extracting confessions from suspects, he asked whether the victims of such practices had access to an independent complaint mechanism. Were the Kyrgyz authorities considering classifying acts of torture as crimes? He also wondered what measures the Government had taken to put a stop to physical and psychological violence inflicted on children in some educational establishments and other institutions for children.

24. A further question was how the authorities intended to increase the independence of the judiciary. He would also like details about the continuing existence of traditional courts that applied a form of customary law, contrary to the provisions of the Covenant and to the right to a

fair trial, in particular. Referring to the case of a person tried by a military court on grounds involving State secrets, he asked whether such grounds systematically led to the trial of civilians by military courts and, if so, why hearings in camera by civil jurisdictions did not constitute a sufficient guarantee.

25. Mr. Amor took the Chair.

26. Lord COLVILLE, welcoming the highly qualified Kyrgyz delegation, invited the authorities of the State party to give careful consideration, when the time came to prepare the next periodic report, to the new guidelines drawn up by the Committee and to provide more specific examples of the implementation of the Covenant. For while the Committee paid close attention to rules and theoretical respect for the Covenant's provisions, it was equally concerned with the practical application of those rules and the appeal mechanisms available to citizens. When Kyrgyzstan introduced its next report to the Committee, he would like to receive a copy of the new Code of Criminal Procedure, the provisions of which appeared to have been improved, as shown, for example, by the reduction in the duration of pre-trial detention. However, the fact that a judge was empowered to request the Office of the Procurator to gather further evidence for the prosecution instead of acquitting a suspect for lack of evidence - in cases where sentence could not be pronounced - was a matter of serious concern. That would allow the period within which a person must be tried to be unduly extended and was contrary to article 14, paragraph 2, of the Covenant, which stipulated that everyone charged with a criminal offence must have the right to be presumed innocent until proved guilty according to law. He wondered whether judges frequently resorted to such a procedure and whether consideration had been given to the possibility of bringing the matter before the Constitutional Court for a ruling on the compatibility of that procedure with the Covenant.

27. Ms. Medina Quiroga resumed the Chair.

28. Mr. KLEIN welcomed the fact that the Committee had finally received Kyrgyzstan's initial report, which gave it an insight into efforts made, at least in terms of standard-setting, in the field of human rights. Kyrgyzstan was admittedly experiencing the very understandable difficulties facing any State in a process of transition, with all the adverse effects that that entailed for the implementation of human rights. On the other hand, for a Government that wanted to promote democratization, such difficulties should provide a stimulus rather than an excuse, as no smooth transition was achieved without the active participation of the population. Indeed, it had been observed that, where people were deprived of their rights, they remained apathetic and the country remained in a state of stagnation. Respect for human rights made States stronger, not weaker.

29. On the specific issue of remedies in the event of human rights violations, he noted with interest that, in paragraph 68 of the report, the State party acknowledged that inadequate legal protection was afforded to its citizens. A comparison between the Covenant and the Constitution indeed showed that the rights guaranteed in the two instruments were not always the same. Articles 12, paragraph 3, and 16, paragraph 1, of the Constitution were of particular significance in that regard, for, while the rights protected under the Covenant could be invoked before the courts, it was not clear how the courts dealt with situations in which domestic laws were at variance with the Covenant's provisions. He would like to know whether article 87,

paragraph 2, of the Constitution applied in such circumstances, as it empowered a court to refer a case to the Constitutional Court where there was any doubt about the constitutionality of the law invoked. The fact that individuals could not bring action before the Constitutional Court was another gap in human rights protection.

30. In his view, Kyrgyzstan would be able to establish a State policy "for the integrated solution of all problems connected with human rights", the absence of which was deplored in paragraph 68 of the report, by opening up access to the Constitutional Court to individuals, by giving constitutional status to the provisions of the Covenant and by invoking article 82, paragraph 3.8, of the Constitution, which stipulated that decisions concerning the constitutionality of law enforcement activities that affected the constitutional rights of citizens were within the jurisdiction of the Constitutional Court.

31. All such measures would prove pointless, however, without a judicial system independent of the Government of Kyrgyzstan and, above all, of its President. Article 81, paragraph 1, of the Constitution, which provided that judges could be removed from office following investigation, raised the question of who conducted such investigations and under what circumstances. There was all the more reason for concern about that provision because even judges of the Constitutional Court could be removed from office by a positive vote of two thirds of the members of Parliament. An even greater matter of concern would be the domination of Parliament by a single party.

32. Two other issues of concern were corruption, which was reportedly rampant among judges on account of their low levels of income, and probably other reasons as well, and the role of the military courts, which appeared to have jurisdiction even over civilians. Although article 83, paragraph 2, of the Constitution stated that the Supreme Court of the Kyrgyz Republic supervised the functioning of the military courts, the report said nothing about the composition and operation of the Supreme Court.

33. Turning to question 9, which dealt with torture, he noted that, in paragraph 225 of the report, Kyrgyzstan acknowledged the existence of such a practice, without, however, specifying how many sentences had been handed down against officials accused of torture or mentioning the number of officials involved, what form of disciplinary action had been taken against them or whether detainees could be examined by physicians competent to establish evidence of torture.

34. With regard to the implementation of article 13 of the Covenant, paragraphs 354 and 355 of the report dealt with the expulsion of foreigners, but made no mention of the remedies available against expulsion orders. That shortcoming should be remedied.

35. Ms. EVATT commended the State party on its extensive work, but she too recommended that the Committee's guidelines on reports should be followed more closely in future. Referring to the first issue to be taken up on the Committee's list, she noted that, whereas paragraph 64 of the report stated that the Covenant applied in Kyrgyzstan as an integral part of domestic law, paragraph 120 specified that "ratified treaties [...] cannot be applied by the courts". That was something of an inconsistency that needed to be clarified by means of examples.

36. Referring to the situation of women in Kyrgyzstan, she said that, despite all the oral and written information received by the Committee and, although the State party had acknowledged the existence of many problems, such as poverty, unemployment, a rise in maternal and child mortality rates and the continued existence of a stereotyped attitude towards women that was increasingly excluding them from the country's political life, a number of grey areas remained on which clarification would be welcome. She would thus like to know whether and to what extent forced marriage, the abduction of young girls and polygamy were still common and whether there were programmes and laws aimed at eradicating them. While the report referred to legal proceedings and sentences for acts of violence, in particular sexual violence, against women, it failed to specify whether that was still an ongoing practice, whether steps had been taken to assess its actual scope, whether there were services and programmes in support of the victims and whether efforts were being made to change people's attitudes. Trafficking in women was another concern that had not been addressed by the delegation. According to certain reports, women were sent, with the support of corrupt officials, to Turkey and the United Arab Emirates for the purposes of forced prostitution, and that made the problems of unemployment and poverty in Kyrgyzstan even worse. She asked whether the extent of the problem had been evaluated and whether measures were being taken to combat that violation of human freedom and dignity.

37. The law was still discriminatory in some respects, as demonstrated by paragraph 148 of the report, which showed that the law on Kyrgyz citizenship gave the father a predominant role. Paragraph 149 mentioned the drafting of a new law on citizenship, but did not specify the content of that law or whether it had been applied. The Committee did not know, moreover, whether the legislation on the family had indeed been reviewed and, if so, whether such a review had been carried out in the light of equality between men and women and whether it had had any impact. It would be interesting to know how women could invoke the laws against discrimination since there had probably been very few complaints and no legal proceedings in that regard. The Committee would welcome details on those points.

38. Concerning the right to health, she referred to the 1998 accident involving a cyanide spill that had caused the deaths of four persons, abortions and diseases and had affected the population's general state of health. She asked whether those who had thus threatened other people's lives had been prosecuted. Paragraph 169 of the report stated that the Criminal Code provided for criminal liability in respect of damage to the environment and threats to people's health and lives. She would like to know whether those provisions had been implemented and whether the victims had received compensation. She also asked whether it was true that freedom of information had been restricted in connection with the accident and whether a university professor had been dismissed for expressing her views on the subject.

39. Drawing attention to paragraph 226 of the report, she asked whether legal remedies were available to individuals wishing to challenge their hospitalization for mental illness. Noting that article 46, paragraph 5.4, of the Constitution conferred absolute power on the President in matters of citizenship and asylum, she asked how such power had been exercised, especially in matters involving refugees, and how article 13 of the Covenant was implemented.

40. Mr. SCHEININ urged the delegation not to forget to refer to child victims of sexual exploitation and trafficking when it discussed the issues of sexual exploitation and trafficking in women.

41. With regard to question 3 of the issues, he drew attention to article 10 of the Constitution, which dealt with states of emergency, and pointed out that that article was not consistent with article 4 of the Covenant because the scope for declaring a state of emergency was wider than under the Covenant and it provided for the possibility of declaring a state of emergency at the local or regional level, whereas the Covenant covered only the national level. Moreover, article 4 of the Covenant restricted the possibility for States parties to take measures derogating from the obligations for which it provided. In his view, there was a gap in the Kyrgyz Constitution inasmuch as it specified neither the obligations from which the State could derogate nor the rights from which no derogation could be made. He suggested that that shortcoming should be remedied.

42. Referring to the issue of capital punishment, he asked how many persons sentenced to death were currently awaiting execution should the moratorium expire, whether there was a list of such persons and whether such a list was available to lawyers and NGOs calling for the abolition of the death penalty. If the moratorium expired, some of those individuals might want to appeal to the Committee, which was well equipped to defend them. He urged the State party to extend the moratorium and even to abolish the death penalty. The Covenant did recognize the death penalty, but in fact aimed to achieve its abolition. Reintroducing the death penalty was always problematic, moreover, because, once a person sentenced to death had benefited from a moratorium, he then became a victim of inhuman or cruel treatment.

43. The information contained in paragraphs 225 and 209 of the report, which had prompted questions 9 and 11 raised by the Committee, dealt with torture and the solitary confinement of detainees, both of which were absolutely inadmissible under articles 7 and 10 of the Covenant. He asked how many people were subjected to those practices.

44. Regarding question 13, he referred to a report by the International Helsinki Federation for Human Rights, according to which judges were expected to pay large amounts in order to remain in office. As that would constitute an institutional incentive for the corruption of the judiciary, he would welcome an explicit statement that there was no such practice.

45. Mr. ANDO said that he shared the concerns expressed by Ms. Evatt and Mr. Scheinin about the status of the Covenant in Kyrgyz domestic legislation and the problems that could arise in the event of variance between the two; about the contradiction between the affirmation of gender equality and the provisions relating to the acquisition of citizenship; about the provisions governing emergency situations; and about the independence of the judiciary. On that last point, he drew attention to paragraph 374 of the report, which dealt with legal assistance for citizens without financial means. Noting that the bar was partly responsible for affording such assistance, he asked whether it was not therefore a kind of government department. If so and inasmuch as the Government was also partly in charge of providing legal assistance, he did not see how the judiciary could be independent. It should in fact have its own budget. He asked for further details on the training, qualifications and registration of members of the judiciary.

46. Mr. ZAKHIA said that the most significant problem was the status of women in Kyrgyz society, as clearly shown by a comparison between their position before the changes in the country and their current status. On the whole, their situation had deteriorated and they were less prominent in society and in political decision-making positions, whereas their capacities and intellectual level were often higher than those of men. That made for an explosive situation. Indeed, a parallel had often been observed between a deterioration in the status of women and that of the environment and a country's overall situation. By disparaging women, a country lowered the value of one half of its human wealth.

47. He noted that countries with a long-standing tradition of liberal democracy had applied quotas in order to improve the status of women. Such a system had advanced democracy and democracy had weakened when the system had been abandoned. He urged Kyrgyzstan, which was in great need of all of its human capital, to adopt that practice.

48. Mr. YALDEN said he would like a reply to question 2, which related to national human rights monitoring bodies. The delegation had provided details confirming the existence of various committees and commissions, as mentioned in paragraphs 4, 5, 6 and 7 of the report and in the oral introduction, but the Committee needed some clarifications on the relationship between those bodies. He also wished to be informed of the progress made in establishing an effective and independent body to handle complaints and on what became of allegations of human rights violations. It was true that it would perhaps be necessary to wait for the adoption of the bill referred to in the last paragraph of the report and by the delegation. Meanwhile, he would like to know whether the Commission or the Commissioner due to be appointed would constitute a national body within the meaning of the Paris Principles.

49. He asked whether the Office of the High Commissioner had been consulted on the establishment of criteria for determining the terms of reference of such a body and whether it would be a truly independent human rights protection mechanism that actually had a monitoring function.

50. As to the status of women, the Kyrgyz delegation had said that attitudes must change for the situation to improve. However, it would be necessary to know what steps the authorities, and State bodies in particular, were taking to promote such a change. Were the various committees and commissions dealing with women's issues taking effective action and, if so, what results had been achieved? It would also be important to know has much weight was carried by traditions, especially in rural areas. According to information from the Committee on the Elimination of Discrimination against Women, female homosexuality constituted a criminal offence in Kyrgyzstan. He asked whether that was true and, if so, what penalties were laid down for such an offence and whether there were any plans to abolish it. From a more general standpoint, what was the situation of homosexuals under the law, particularly with regard to the statutory age of consent to sexual relations and protection against discrimination?

51. Concerning article 10 of the Covenant, the scrutiny commissions described in paragraphs 317 et seq. appeared to have extensive powers. It would be interesting to know what results those commissions had achieved thus far, especially in respect of appeals by detainees, which they were empowered to receive and consider, according to paragraph 320 (c)

of the report, and what their status was vis-à-vis the prison authorities. If the commissions found that detainees had been subjected to unacceptable treatment, was a remedy available and were the commissions in a position to provide appropriate compensation.

52. Ms. CHANET said that she shared the concerns about the death penalty and the independence of the courts expressed by the other members of the Committee. As to the status of the Covenant in domestic law, the Kyrgyz delegation should clearly specify whether the Covenant had been incorporated in national legislation, as that did not appear to be the case according to paragraph 120 of the report. Kyrgyzstan was a country in transition and was obviously suffering as a result of the vestiges of the past. She endorsed the Committee's concerns about permission of residence (propiska). Other concerns relating to procedures inherited from the past remained. In particular, the duration of custody, which could extend up to 20 days, seemed hardly compatible with the Covenant. It would be necessary to obtain more specific details on the regime applicable to custody and to know at what stage a person who had been arrested had access to counsel, could be examined by a physician and could establish contact with his family. An individual in custody was, by definition, presumed innocent and was the subject of a judicial administration measure taken with a view to the collection of evidence. She was therefore very surprised to read in paragraph 197 of the report that such individuals were liable to penalties in the form of work duties. That did not appear to her to be compatible with article 8 of the Covenant, since a person in custody was not the subject of a judicial decision. More specific information about the rights of persons held in custody would be welcome.

53. Concerning the punishment of crimes of opinion and the offence of libel, in particular, by a term of imprisonment, she doubted that such a penalty was consistent with articles 9 and 19, paragraph 3, of the Covenant. With regard to "corrective labour", as referred to in paragraphs 200 et seq. of the report, and political education, as mentioned in paragraph 202, she would like to know what those two measures involved and how the authorities justified them from the standpoint of social rehabilitation, as provided for in article 10 of the Covenant. On that point, she referred the Kyrgyz delegation to the Committee's General Comment No. 9 on article 10 of the Covenant (HRI/GEN/1/Rev.3). Where such measures applied to a crime of opinion and were aimed, for example, at political opponents of the regime, they could not be regarded as consistent with the Covenant.

54. Mr. SOLARI YRIGOYEN said that he welcomed the extremely favourable developments that had taken place since the independence of Kyrgyzstan in 1991, but noted that much still remained to be done. At the very least, a number of questions remained unanswered. While Kyrgyzstan was to be commended for acceding to 22 international human rights instruments, the contradictory statements in paragraphs 64 and 120 of the report raised doubts about the implementation of those instruments and the Committee would like some explanations in that regard. Concerning the death penalty, a moratorium on executions had been in force since late 1998 and the number of crimes punishable by execution had gone down. It nevertheless appeared that 60 people had been sentenced to death in Kyrgyzstan. Could the delegation confirm that figure? He would also like to know what would become of those persons when the moratorium expired. As to the referendum that should be organized in the near future, he wondered whether participation would be compulsory and whether the outcome would be binding on the authorities.

55. Paragraph 98 of the report stated that the President of the Republic ruled on the right of asylum. The question was whether the President was empowered to refuse asylum to a person requesting that right and, if so, whether the decision could be challenged and before which authority.

56. The steadily decreasing participation of women in the management of public affairs had already been discussed and the Kyrgyz delegation had said that it required a change in people's attitudes. Although it was true that such a change would not occur from one day to the next, the Kyrgyz delegation could specify what practical steps had been taken to ensure that equality between men and women, as embodied in the Constitution, became a reality.

57. He asked why the practice of torture was not a criminal offence in Kyrgyzstan. In paragraph 225 of the report, he had noted that torture, although prohibited by the Constitution, was far from being eradicated, and that was a source of serious concern to the Committee. What measures had the Government taken or considered taking in order to put an end to that scourge?

58. Concerning the implementation of article 8 of the Covenant and, in particular, the question of conscientious objection, he took it that only members of duly registered religious organizations could enlist for alternative (non-military) service. If so, what of persons who did not come within that category? The length of non-military service appeared excessive, moreover, in relation to that of national military service and was thus punitive in nature. He would like to hear the Kyrgyz delegation's views on the subject.

59. In referring to the implementation of article 12 of the Covenant, the Kyrgyz delegation had reported problems caused by intolerant religious groups along the country's borders, presumably with Uzbekistan. It was for the Government to ensure the rule of law throughout the national territory, however, and to guarantee full observance of the rights provided for in article 12 of the Covenant. Further details would be welcome on that point as well. Lastly, he associated himself with the other members of the Committee who had asked questions about ill-treatment inflicted on children, the existence and powers of the military courts, and polygamy.

60. Mr. AMOR, referring to paragraph 35 of the report, asked whether persons over 65 years of age were not entitled to run for presidential office and whether the President of the Republic could not remain in office beyond the age of 65. Imposing an age limit on presidential candidates would be somewhat unreasonable and constituted a form of discrimination against persons most of whom were in full possession of their mental and physical capacities and on whom society conferred, on account of their age, the virtues of wisdom.

61. He wished to know whether the Human Rights Commission referred to in paragraph 54 of the report took part in the performance of presidential duties or whether it merely assisted the President. He would also like to receive details on the composition of that body, the procedure for appointing its members, the duration of its mandate, its functions and the procedures it applied. Was it empowered to receive complaints by individuals and, if so, how did it deal with them? He asked whether the reports submitted by the Human Rights Commission to the President of the Republic were made public and what follow-up was given to them.

62. Concerning the status of women in Kyrgyzstan, he was under the impression that little progress was being made and that, on the contrary, certain facilities and advantages previously enjoyed by women had been withdrawn. As the Kyrgyz delegation had said, it was admittedly necessary to change people's attitudes and to take educational measures in order to solve the problem, but the situation was paradoxical in that the implementation of such a policy was likely to be hampered by the country's religious environment. He would like to know what status women enjoyed in relation to religion and whether one or more religious pronouncements had been made in favour of polygamy or to condemn abortion, medically assisted fertility or the development of biotechnology. He also wished to know whether the bill for Kyrgyzstan's accession to the Convention on the Elimination of All Forms of Discrimination against Women had been adopted, whether the Government was planning to accede to that Convention without reservations and, if not, what reservations were being considered.

63. On the subject of observance of article 6 of the Covenant, paragraph 182 of the report stated that the death penalty could be imposed for murder motivated by hooliganism. The concept of "hooliganism" was very ambiguous and was open to many interpretations. He wondered how and according to what criteria the authorities defined that concept. With regard to the right to conscientious objection, he wished to know what the criteria for the registration of a religious organization were. He also associated himself with Mr. Solari Yrigoyen's questions about non-military service.

64. Mr. KRETZMER expressed concern about the application of the provisions of article 9, paragraph 3, of the Covenant. In particular, the report did not clearly show how the procedures for arrest and custody differed from pre-trial detention. It also appeared that it was for the procurator to rule on continued detention at the end of the custody period. Since the Office of the Procurator was part of the executive, it would be necessary to know what measures were available to give effect to the above-mentioned provisions of the Covenant, including the obligation promptly to bring anyone arrested or detained before a judge. He also wished to know how many individuals were being held in pre-trial detention. The report suggested that persons in custody could rapidly contact counsel and family members. NGOs had, however, reported cases of detainees held in solitary confinement. He would like to hear the delegation's views on that point and to know whether an investigation was conducted in the event of unlawful detention. Did unlawful detention gave the right to compensation and, if so, what compensation measures had already been taken? On the more general subject of conditions of detention, it would appear that the provisions of article 10, paragraph 2, of the Covenant were not applied, particularly as far as detainees' food was concerned. He would like to know what steps the Government had taken or was planning to take in order to remedy that situation.

65. Mr. HENKIN said that he shared all the concerns expressed by the other members of the Committee and was especially concerned about conditions of detention, which appeared to be particularly harsh. There was evidently no satisfactory external control mechanism to monitor the situation in detention facilities. The fact that compliance with the provisions of article 14 of the Covenant did not appear to be fully guaranteed in Kyrgyzstan was another matter of concern.

66. As to the opening up of borders, to which the Kyrgyz delegation had referred, he would like to know whether borders other than those mentioned by the delegation had been opened up, whether measures with a view to family reunification had been taken and whether persons displaced by conflict had been able to return home.

67. He asked the Kyrgyz delegation to specify whether "contempt of presidential authority" constituted an offence and to define that expression. If contempt of presidential authority was punishable by law, he wondered how that was compatible with the right to freedom of expression. As the right to freedom of religion appeared to be subject to certain restrictions, he would like to know what restrictions were actually applied. Some appeared to be justified by the desire to curb fundamentalism. He wondered how the term "fundamentalism" was to be understood and what authority defined it. Since several sources had indicated that the latest parliamentary elections had been marred by very serious irregularities, it would be necessary to know what steps the Government had taken to prevent that from happening again.

68. The CHAIRPERSON said that the Committee would continue its consideration of the initial report of Kyrgyzstan (CCPR/C/113/Add.1) at its next meeting.

The meeting rose at 1.10 p.m.